Mr. Thanu Pillai.—My next amendment, in section 23, is rather important. I propose the omission of the words " to create by Will any interest in property which he could not have created under the law by which he is governed, or " and also the words " by Will " at the end of the section. Perhaps a word of explanation is necessary. Section 23 is taken from the Hindu Wills Act; but that Act does not *confer* the power of making Wills, but only *regulates* or *declares* the power which was held to have been already possessed by the Hindus. In Travancore, on the other hand, according to the interpretation put by the local High Court, the people do not possess the power of making Wills. This Bill *confers* the power for the first time. If the words which I propose to omit are retained, they will practically nullify section 3 and thus defeat the very object of the measure. Hence the amendment.

Seconded by Mr. Kochukrishna Marar.

Carried.

Mr. Kochukrishna Marar.—I beg to propose the following amendment:—For section 24, substitute, " Nothing in this Regulation shall be taken to affect or curtail the extent of testamentary power possessed by any person before this Regulation came into force, except in respect of immovable property situate within Travancore." This amendment has been considered necessary to remove some of the practical difficulties that are likely to be met with by retaining section 24 as it is in the Bill. What these difficulties are have been already explained before this Council on a former occasion.

Seconded by Mr. Rajaram Row.

Mr. Ramier.—This point was discussed at great length at a previous meeting of this Council. I do not wish to reopen the discussion but merely refer to it to explain my attitude in regard to this amendment. I however abstain from voting.

Carried by majority, Messrs. Thanu Pillai and Ramier abstaining from voting.

Mr. Thanu Pillai.—My last amendment is also important. It is to add a new section exempting Europeans and Americans from the operation of this Regulation. In one sense it is not a new provision, for you will observe that the Select Committee when considering this Bill thought such a provision necessary and recommended its adoption. But the Council took a different view. On further consideration, however, it has been thought desirable to exempt Europeans and Americans from the operation of this Regulation. They have their own personal law on the subject and have been making Wills under that law, and these Wills have been acted upon in this country all these years. The provisions of this Bill are not on all fours with that law. There are certain material differences and it is considered not quite necessary to make any modification in respect of Europeans and Americans so far as the making of Wills is concerned. Hence this amendment.

Seconded by Mr. Maltby.

Carried.

Mr. Thanu Pillai.—I beg to move that the Bill as amended be passed and that it come into force on the first day of Mithunam 1074.

The motion was put and agreed to.

PUBLIC CONVEYANCES BILL.

Mr. Thanu Pillai.—I beg to move for leave to introduce a Bill to regulate Public Conveyances in this country. The Bill has already been placed before the members. In the Statement of Objects and Reasons I have briefly mentioned the reasons which have led to the bringing forward of this measure. We have at present no law to regulate the working of steam-boats, tram-cars and other vehicles worked by steam, electricity, gas or other mechanical power, and established as a regular business *i. e.* for the public conveyance of passengers, goods and animals from one specified place to

LIBRARY ARCHIVES Kerala Legislative Assembly

another. Government have recently received applications from various persons for permission to establish steam-boat service and to introduce motor-cars. The pioneers of these undertakings who have to incur at the outset some considerable expense and even risk naturally ask for the grant of exclusive privilege for a more or less limited period. We cannot expect capitalists to be so public spirited or philanthropic as to invest their money in an undertaking because the undertaking will prove beneficial to the public, without an assurance that when the undertaking has been shown to be a remunerative one, they will not be supplanted by rivals who did not share in the initial expense and risk. Some kind of limited monopoly is, therefore, necessary. But a monopoly however limited or partial is not an unmixed good, and it is therefore necessary that it should be hedged round by stringent and suitable restrictions. On the one hand, the grantee of the privilege should be protected not only from competing public carriers, but also from the wrongful acts of the public. On the other hand, the public should be equally protected from the wrongful acts of the public carrier. The Bill seeks to secure these objects. It is a short measure and contains only a few enacting provisions. All the details are left to be settled by rules to be framed from time to time. Considering that Public Conveyances by steam, electricity and similar motive power are a novelty in Travancore, and considering also the rapid changes and developments which have been made or are likely to be made in the methods of and demands for locomotion, it appears to be undesirable to embody in the Bill details which will have to be modified according to varying conditions.

I need only add one word with regard to the last section which gives power to Government to apply the provisions of the proposed measure to any regular transit service. The necessity for this provision will, I am sure, come home to all who have had experience of the present transit service in Travancore. I may add that the Bill does not affect any private conveyance worked by mechanical power or otherwise, even though such conveyance carries passengers or goods gratuitously or *pro hac vice*. I do not think I need trouble you with any further remarks at this stage and would, therefore, ask the permission of the Council to introduce the Bill.

Permission was accordingly granted.

TOBACCO REGULATION AMENDMENT BILL.

Mr. Thanu Pillai:—I beg to introduce a Bill to amend the Tobacco Regulation. The Bill has been already published in the Gazette under Rule 32. There are only two important provisions in the Bill. The one is section 1, which enables Government to declare that in any specified area the sale of tobacco shall be carried on only under a license; and the other is section 3, which empowers certain officers to search houses and other buildings &c. suspected to contain contraband tobacco and to arrest any person in such buildings &c., who is reasonably believed to have committed an offence under the Tobacco Regulation.

In regard to the first provision, namely, the introduction of the license system, it will be observed that it is intended only for particular localities, which will practically be the frontier tracts. It is there that smuggling prevails to a large extent and has to be checked by stringent measures. The Council is doubtless aware that in British India and Native Cochin, tobacco is practically free and pays very little revenue to the State, whereas in this country nearly one-ninth of the public revenue is derived from this source. In British India and Cochin, tobacco, not being an article of Government monopoly, sells much cheaper than here. There is thus great incentive for smuggling. I understand that the lay of some of the tracts about the frontier also affords facility for smuggling. It is understood that smugglers are hand and glove with the sellers, and with the aid of the latter, drive a fat trade in some of the frontier tracts. The introduction of the license system though it might lead to some little inconvenience will assist greatly in detecting smuggling and in preventing it. After all, the inconvenience will not be much, for even now the import, transport and sale of tobacco are subjected to a number of restrictions. For instance, a retail dealer who purchases tobacco from a wholesale dealer has to take out a pass for it. Until recently, only particular kinds

LIBRARY ARCHIVES Kerala Legislative Assembly